

PILLSBURY WINTHROP SHAW PITTMAN LLP
THOMAS V. LORAN III (SBN 95255)
MARC H. AXELBAUM (SBN 209855)
WESLEY M. SPOWHN (SBN 252939)
50 Fremont Street
Post Office Box 7880
San Francisco, CA 94120-7880
Telephone: (415) 983-1000
Facsimile: (415) 983-1200
thomas.loran@pillsburylaw.com
marc.axelbaum@pillsburylaw.com
wesley.spowhn@pillsburylaw.com

Attorneys for Plaintiff
NICHOLAS BART ELLIS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NICHOLAS BART ELLIS,

Plaintiff,

vs.

A. NAVARRO, et al.,

Defendants.

No. C 07-5126 SBA (pr)

**STIPULATION AND ORDER TO
ENLARGE CONDITIONAL
DISMISSAL PERIOD**

Courtroom: 1

Judge: Hon. Sandra Brown Armstrong

Plaintiff Nicholas Bart Ellis and Defendants A. Navarro, F. Juarez and B. Gardner
(collectively, the “Parties”)¹ hereby stipulate as follows:

STIPULATION

WHEREAS the parties conducted a settlement conference on August 22, 2012
before Hon. Laurel Beeler and agreed to settle the above-captioned action;

WHEREAS the parties’ agreement to settle the action was conditioned upon, *inter alia*, (1) the execution of a written release and settlement agreement, (2) the payment of a settlement sum to Plaintiff, and (3) Plaintiff’s dismissal of the action with prejudice after his receipt of the settlement sum;

WHEREAS the parties have negotiated a written release and settlement agreement and expect Plaintiff to be paid the settlement sum within six months of the execution of the written release and settlement agreement, but no later than April 1, 2013;

WHEREAS the Court issued an Order of Conditional Dismissal on August 23, 2012, ordering that the action is dismissed with prejudice, provided that the parties may move to reopen the case and the trial will be rescheduled if a motion is filed within 30 days of the Order;

WHEREAS the parties agree that the action should be conditionally dismissed pending Plaintiff’s receipt of the settlement sum, pursuant to the written release and settlement agreement, which is expected to occur in approximately six months, but no later than April 1, 2013;

WHEREAS Plaintiff agrees to dismiss the action with prejudice within ten days of his receipt of the settlement sum, expected to occur no later than April 1, 2013;

NOW, THEREFORE, the Parties, through their undersigned counsel, stipulate and request that the Court order that the Conditional Dismissal Period be enlarged so that

¹ On June 18, 2010, the Parties entered into a Stipulation and [Proposed] Order voluntarily dismissing Defendant C.E. Wilber pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). Dkt. 34.

Plaintiff may dismiss the action with prejudice within ten days of his receipt of the settlement sum, which is expected to occur no later than April 1, 2013.

Dated: September 19, 2012

PILLSBURY WINTHROP SHAW PITTMAN LLP
THOMAS V. LORAN III
MARC H. AXELBAUM
WESLEY M. SPOWHN
50 Fremont Street
Post Office Box 7880
San Francisco, CA 94120-7880

By /s/ Wesley M. Spowhn
Wesley M. Spowhn

Attorneys for Plaintiff NICHOLAS BART ELLIS

ANDRADA & ASSOCIATES
J. RANDALL ANDRADA
MATTHEW ROMAN
180 Grand Avenue, Suite 225
Oakland, CA 94612

By /s/ Matthew Roman
Matthew Roman

Attorneys for Defendants
SERGEANT A. NAVARRO;
CORRECTIONAL OFFICER F. JUAREZ
CORRECTIONAL OFFICER B. GARDNER; AND
APPEALS COORDINATOR C.E. WILBER

DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, Wesley M. Spowhn, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from the signatory listed above.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on September 19, 2012, at San Francisco, California.


By /s/ Wesley M. Spowhn
Wesley M. Spowhn

Attorney for Plaintiff NICHOLAS BART ELLIS

ORDER

IT IS SO ORDERED.

_9/19/12



The Hon. Sandra Brown Armstrong
United States District Judge